S.B.CIVIL WRIT PETITION NO.21/1995

Raj.State Road Transport Corpn. & Ors.
V.
Shri Tahla Singh & Anr.

Date of Order :: 17th January, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Sangeet Lodha, for the petitioner.
Mr. D.K.Parihar, for the respondents.

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The Rajasthan State Road Transport Corporation by this petition for writ has given challenge to the award dated 11.5.1994 passed by Labour Court, Bikaner in Industrial Dispute No.23/1990. By award impugned the Labour Court substituted the penalty of stoppage of two annual grade increments with cumulative effect by penalty of the stoppage of two annual grade increments without cumulative effect imposed upon the respondent workman by an order dated 6.3.1984. The Labour Court held that under Order 36 of the Rajasthan State Road Transport Corporation Standing Orders the penalty of stoppage of two annual grade increments with cumulative effect is not prescribed and, therefore, imposition of such a penalty upon an employee is not in accordance with law.

While giving challenge to the award impugned it is contended by counsel for the petitioner that the penalty of withholding of annual grade increments with

cumulative effect is at par to reduction to a lower stage in time scale and that being a penalty envisaged under Order 36 of the Standing Orders is rightly imposed upon the workman on being holding guilty for a misconduct proved.

The Division Bench of this Court in the case of Krishna Dutta Sharma v. State of Rajasthan, RLR 1987(1) 346, held as under:-

> "While in case of withholding of grade increment with cumulative effect the Government servant is put to a financial loss for the entire period of his future service and the result is that he is put to one grade increment less for the entire period of his remaining service. In our view such penalty of withholding of grade increment with cumulative effect and reduction to a lower stage in the time scale as provided as one of the penalties under clause (iv) of Rule 14 are equivalent and have the same effect. Learned Additional Government Advocate was unable to explain any difference in the aforesaid two kinds of penalties. If a Government servant is given a penalty of reduction to a lower stage in the same time scale, then also such Government servant is put to a loss of one grade increment for the entire period of his service after such punishment. It remains undisputed that the penalty of reduction to a lower stage in the time scale as specified in clause (iv) of Rule 14 is a

> major lower stage in the time scale as specified in clause (iv) of Rule 14 is a major penalty and procedure for enquiry has to be followed as provided under Rule 16 of the Rules."

In view of the law laid down by Division Bench of this Court in the case of Krishna Dutta Sharma (supra) the penalty of stoppage of annual grade increments with cumulative effect is a penalty equal to the penalty of reduction to a lower stage in the time scale. It is not in dispute that a penalty of reduction to a lower stage in the time scale is specified as a major penalty under the Standing Orders. The Labour Court, therefore, erred while holding that no penalty of stoppage of annual grade increments with cumulative effect is prescribed under the Standing Orders.

As a consequent to the discussion above, this petition for writ deserves acceptance and is hereby allowed. The award impugned dated 11.5.1994 passed by Labour Court, Bikaner (Camp Sriganganagar) is quashed.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.